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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,662	11/26/2003	Keith Goclowski	02-065-KG	5143

7590 05/25/2007
LAMBERT & ASSOCIATES
SUITE 200
92 STATE ST
BOSTON, MA 02109

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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05/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/722,662

Applicant(s)

GOCLOWSKI, KEITH

Examiner

Matthew S. Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 9-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/26/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Claims 9-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/23/2007.

Drawings

The drawings filed on 11/26/2003 are replete with minor informalities. For example:

- Figures 11 and 13-15 – Title typographical errors.
- Figures 18 through 45 – Improper handwritten text.

In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berent (U.S. Patent No. 5,774,873) in view of Friedland (U.S. Patent No. 6,449,601).

Berent discloses an interactive vehicle auction and sale system comprising:

a plurality of computers (Berent: Fig. 1, "2");

a computer network enabling communication between said plurality of computers (Berent: column 4, lines 17-29);

a plurality of user interface terminals in connection with said computer network, said terminals utilized to display an amount of auction and sales information and to input a series of auction bids (Berent: Fig. 2c);

a plurality of databases and corresponding database servers for storage of an amount of vehicle statistics (Berent: Fig. 1, "9" and column 4, line 66 to column 5, line 20);

an input computer in communication with said network to receive and to route said amount of auction and sales information to a plurality of database servers (Berent: column 5, lines 20-24);

a network server in communication with said plurality of user interface terminals and said plurality of database servers, through said network, said network server utilized to control said vehicle auction and sale system, coordinate said series of auction bids and maintain communications between said plurality of user interface terminals and a plurality of servers (Berent: Fig. 1, "7");

an applications server in communication with said network and said user interface terminals; said applications server containing a system software program for operating said interactive vehicle auction and sale system (Berent: column 4, line 66 to column 5, line 14);

a vehicle image server in communication with said network and said user interface terminals, containing a plurality of electronic vehicle images to be accessed by said user terminals (Berent: column 10, line 19-32);

a template server in communication with said network and said user interface terminals, containing a plurality of templates to be accessed by said user interface terminals in conjunction with said system software program, an amount of data from said template server utilized as a plurality of interactive computer screens (Berent: Fig. 4b);

a plurality of mail servers in communication with said network, said plurality of mail servers utilized to receive an amount of auction and sales

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information from said users; said mail servers also utilized to respond to said users (Berent: column 5, lines 47-59); and

a plurality of protection mechanisms contained within said network to protect said database servers from unwanted access (Berent: column 4, lines 38-52).

Berent does not expressly disclose an interactive vehicle auction and sale system comprising a web server. In a similar system, Friedland discloses a system comprising a web server (Friedland: Fig. 4). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the teachings of Friedland, because the Internet has blossomed from a medium for simple data exchange and messaging to the fastest growing, most innovative medium for information exchange and commerce (Friedland: column 1, lines 13-34).

Berent does not expressly disclose an interactive vehicle auction and sale system comprising a video server in communication with said network and said user interface terminals, containing a plurality of video media to be accessed by said user terminals. In a similar system, Friedland discloses a video server in communication with said network and said user interface terminals, containing a plurality of video media to be accessed by said user terminals (Friedland: Column 8, lines 10-27). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of

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Berent to have included the teachings of Friedland, in order to improve the timeliness, quality, quantity, and, perhaps most importantly, the types of information that can be exchanged through the Internet (Friedland: column 1, lines 35-49).

Berent does not expressly disclose a bank system connection in communication with said network to enable verification of a credit line of a vehicle purchaser. In a similar system, Friedland discloses a bank system connection in communication with said network to enable verification of a credit line of a vehicle purchase (Friedland: column 11, lines 20-37). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the teachings of Friedland, because the Internet has blossomed from a medium for simple data exchange and messaging to the fastest growing, most innovative medium for information exchange and commerce (Friedland: column 1, lines 13-34).

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Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berent (U.S. Patent No. 5,774,873) in view of Friedland (U.S. Patent No. 6,449,601) in further view of Alaia (U.S. Patent Application Publication No. 2002/046148).

Berent in view of Friedland discloses a system according to claim 1 as indicated supra. Neither Berent nor Friedland disclose the use of an auction timer.

Alaia, in a similar system, discloses an auction timer that controls an amount of time allotted for an interactive auction and a readout of said timer displayed on a user interface (Alaia: paragraph 0040).

Alaia further discloses a system wherein, an auction timer controls an amount of time allotted for said interactive vehicle auction and a readout of said timer is displayed on said user interface terminals (Alaia: paragraph 0040).

Alaia further discloses a system wherein, said auction timer automatically resets upon entry of a bid value higher than a currently pending highest bid value (Alaia: paragraph 0040).

Alaia further discloses a system wherein, upon expiration of said auction timer, system user corresponding to said highest bid value entered in said interactive vehicle auction wins said interactive vehicle auction (Alaia: paragraph 0040).

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Alaia further discloses a system wherein, upon expiration of said auction timer, an electronic mail transmission is sent to said system user corresponding to said highest bid value (Alaia: paragraph 0040).

Alaia further discloses a system wherein, said auction timer commences a count down process from a value of one minute (Alaia: paragraph 0040). The Examiner notes, the specific minute value utilized within the count down process does not structurally affect the claimed system. Said value will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d, 1381, 217 USPQ 401, 404 (Fed. Cir. 1983).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent and Friedland to have included the timing feature of Alaia because many systems are biased towards the supplier offering the electronic market. Procurement costs can be further lowered with an unbiased electronic market that promotes competition (Alaia: paragraph 0006).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Msg
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AU3625


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